

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

TONI LYNELLE DAVIS
1012 S. Pearl Ave.
Compton, CA 90221

Registered Nurse License No. 462490

Respondent

Case No. 2011-411

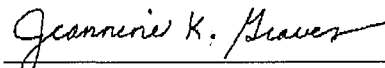
OAH No. 2010120066

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **August 19, 2011.**

- IT IS SO ORDERED **August 19, 2011.**



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
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Attorneys for Complainant
7

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the First Amended Accusation
11 Against:

12 **TONI LYNELLE DAVIS**
13 **1012 S. Pearl Ave**
Compton, CA 90221
14 **Registered Nurse License No. 462490**

15 Respondent.

Case No. 2011-411

OAH No. L-2010120066

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., R.N. (Complainant) is the Executive Officer of the Board of
21 Registered Nursing. She brought this action solely in her official capacity and is represented in
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Geoffrey Ward,
23 Deputy Attorney General.

24 2. Toni Lynelle Davis (Respondent) is represented in this proceeding by attorney Eric
25 Acevedo, whose address is Goyette & Associates, Inc., 11344 Coloma Rd #145, Gold River, CA
26 95670.

27 3. On or about March 31, 1991, the Board of Registered Nursing issued Registered
28 Nurse License No. 462490 to Toni Lynelle Davis. The Registered Nurse License was in full
force and effect at all times relevant to the charges brought in First Amended Accusation No.

1 2011-411. The License lapsed on April 30, 2011, but can be renewed. The lapse in licensure
2 does not deprive the Board of jurisdiction to enter into this agreement or to impose discipline on
3 Respondent.

4 JURISDICTION

5 4. Accusation No. 2011-411 was filed before the Board of Registered Nursing (Board),
6 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
7 and all other statutorily required documents were properly served on Respondent on November 1,
8 2010. Respondent timely filed her Notice of Defense contesting the Accusation. A First
9 Amended Accusation was then filed and properly served on Respondent on January 25, 2011. A
10 copy of First Amended Accusation No. 2011-411 is attached as Exhibit A and incorporated by
11 reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in the First Amended Accusation No. 2011-411. Respondent also has
15 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
16 Surrender of License and Order.

17 6. Respondent is fully aware of her legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the First Amended Accusation; the right to be
19 represented by counsel, at her own expense; the right to confront and cross-examine the witnesses
20 against her; the right to present evidence and to testify on her own behalf; the right to the issuance
21 of subpoenas to compel the attendance of witnesses and the production of documents; the right to
22 reconsideration and court review of an adverse decision; and all other rights accorded by the
23 California Administrative Procedure Act and other applicable laws.

24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

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ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 462490, issued to Respondent Toni Lynelle Davis, is surrendered and accepted by the Board of Registered Nursing.

14. The surrender of Respondent's Registered Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

15. Respondent shall lose all rights and privileges as a registered nurse in California as of the effective date of the Board's Decision and Order.

16. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

17. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 2011-411 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

18. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in First Amended Accusation, No. 2011-411 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

19. Respondent shall not apply for licensure or petition for reinstatement for two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of License and Order and have fully
3 discussed it with my attorney, Eric Acevedo. I understand the stipulation and the effect it will
4 have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 Board of Registered Nursing.

7
8 DATED: June 24, 11

Toni Lynelle Davis
TONI LYNELLE DAVIS
Respondent

10 I have read and fully discussed with Respondent Toni Lynelle Davis the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order
12 for Public Reprimand. I approve its form and content.

13
14 DATED: June 20, 2011

Eric Acevedo
ERIC ACEVEDO
Attorney for Respondent

17 ENDORSEMENT

18 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
19 for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

20
21 Dated: June 20, 2011

Respectfully submitted,

22 KAMALA D. HARRIS
Attorney General of California
23 KAREN B. CHAPPELLE
Supervising Deputy Attorney General

24 Geoffrey Ward
25 GEOFFREY WARD
26 Deputy Attorney General
27 Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 2011-411

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2 KAREN B. CHAPPELLE
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3 RANDY M. MAILMAN
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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the First Amended Accusation
11 Against:

Case No. 2011-411

12 **TONI LYNELLE DAVIS**
1012 S. Pearl Ave
13 Compton, CA 90221
14 Registered Nurse License No. 462490

FIRST AMENDED ACCUSATION

15 Respondent.

16 Complainant alleges:
17

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this First Amended Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about March 31, 1991, the Board of Registered Nursing issued Registered
23 Nurse License Number 462490 to Toni Lynelle Davis ("Respondent"). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on April 30, 2011, unless renewed.

26 **JURISDICTION**

27 3. This First Amended Accusation is brought before the Board of Registered Nursing
28 ("Board"), under the authority of the following laws. All section references are to the Business

1 and Professions Code ("Code") unless otherwise indicated.

2
3 **STATUTORY PROVISIONS**

4 4. Section 490 provides:

5 "(a) In addition to any other action that a board is permitted to take against a licensee, a
6 board may suspend or revoke a license on the ground that the licensee has been convicted of a
7 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
8 or profession for which the license was issued.

9 (b) Notwithstanding any other provision of law, a board may exercise any authority to
10 discipline a licensee for conviction of a crime that is independent of the authority granted under
11 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
12 of the business or profession for which the licensee's license was issued.

13 (c) A conviction within the meaning of this section means a plea or verdict of guilty or a
14 conviction following a plea of nolo contendere. Any action that a board is permitted to take
15 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
16 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
17 made suspending the imposition of sentence, irrespective of a subsequent order under the
18 provisions of Section 1203.4 of the Penal Code."

19 5. Section 2750 provides, in pertinent part, that the Board may discipline any licensee,
20 including a licensee holding a temporary or an inactive license, for any reason provided in Article
21 3 (commencing with section 2750) of the Nursing Practice Act.

22 6. Section 2761 provides, in pertinent part:

23 "The board may take disciplinary action against a certified or licensed nurse or deny an
24 application for a certificate or license for any of the following:

25 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

26

27 (f) Conviction of a felony or of any offense substantially related to the qualifications,
28 functions, and duties of a registered nurse, in which event the record of the conviction shall be

1 conclusive evidence thereof.”

2 7. Section 2762 provides:

3 “In addition to other acts constituting unprofessional conduct within the meaning of this
4 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
5 chapter to do any of the following:

6 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
7 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
8 administer to another, any controlled substance as defined in Division 10 (commencing with
9 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
10 defined in Section 4022.

11 (b) Use any controlled substance as defined in Division 10 (commencing with Section
12 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
13 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
14 himself or herself, any other person, or the public or to the extent that such use impairs his or her
15 ability to conduct with safety to the public the practice authorized by his or her license.

16 (c) Be convicted of a criminal offense involving the prescription, consumption, or
17 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
18 or the possession of, or falsification of a record pertaining to, the substances described in
19 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
20 thereof.

21 (d) Be committed or confined by a court of competent jurisdiction for intemperate use of or
22 addiction to the use of any of the substances described in subdivisions (a) and (b) of this section,
23 in which event the court order of commitment or confinement is prima facie evidence of such
24 commitment or confinement.”

25 8. Section 2764 provides, in pertinent part, that the expiration of a license shall not
26 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
27 to render a decision imposing discipline on the license.
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1 REGULATORY PROVISIONS

2 9. California Code of Regulations, title 16, section 1444, provides:

3 "A conviction or act shall be considered to be substantially related to the qualifications,
4 functions or duties of a registered nurse if to a substantial degree it evidences the present or
5 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
6 safety, or welfare.

7 Such convictions or acts shall include but not be limited to the following:

8 (a) Assaultive or abusive conduct including, but not limited to, those violations listed in
9 subdivision (d) of Penal Code Section 11160.

10 (b) Failure to comply with any mandatory reporting requirements.

11 (c) Theft, dishonesty, fraud, or deceit.

12 (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
13 Penal Code."

14 CONTROLLED SUBSTANCES

15 10. "Vicodin" is a prescription tablet comprised of hydrocodone and acetaminophen.
16 Hydrocodone is an opioid analgesic and a schedule II controlled substance as designated by
17 California Health and Safety Code section 11055 (b)(1)(J).

18 COST RECOVERY

19 11. Section 125.3 provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licensee found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 FIRST CAUSE FOR DISCIPLINE

24 (Conviction of Substantially-Related Crimes)

25 12. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and
26 (f) and section 490 of the Code, as defined in California Code of Regulations, title 16, section
27 1444, in that on or about July 23, 2008, after pleading *nolo contendere*, Respondent was
28 convicted of one misdemeanor count of violating Health and Safety Code section 11173 (a)

(obtaining a controlled substance by fraud) in the criminal proceeding entitled *The People of the State of California v. Toni Davis* (Super. Ct. Los Angeles County, 2008, No. 8BF02067).

Respondent was placed on probation for three years, ordered to do a drug rehabilitation program, and fined. The circumstances surrounding the conviction are as follows:

- a. On or about March 23, 2008, Respondent contacted CVS Pharmacy and ordered a fraudulent prescription of Vicodin. Respondent then went to CVS to pick up the fraudulently prescription.
- b. Police were notified of the forged prescription and responded to CVS.
- c. Police arrested Respondent. Respondent acknowledged to police that she became addicted to Vicodin after a car accident in 2004. Respondent admitted that she fraudulently ordered the controlled substance.

SECOND CAUSE FOR DISCIPLINE

(Conviction of Substantially-Related Crimes)

13. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and (f) and section 490 of the Code, as defined in California Code of Regulations, title 16, section 1444, in that on or about October 27, 2009, after pleading *nolo contendere*, Respondent was convicted of one felony count of violating Penal Code section 459, subdivision (b) (second degree burglary) in the criminal proceeding entitled *The People of the State of California v. Toni Lynell Davis* (Super. Ct. Los Angeles County, 2009, No. VA110317). Respondent was sentenced to formal probation for three years, ordered to complete a drug rehabilitation program, and fined.

The circumstances surrounding the conviction are as follows:

- a. On or about March 23, 2008, Respondent contacted the Walgreens Pharmacy by telephone and ordered a fraudulent prescription be filled for Vicodin for a fictitious person by the name of Alex Davidson.
- b. Respondent later went to Walgreens Pharmacy to pick up the fraudulent prescription. The pharmacy did not release the medication to Respondent.
- c. Walgreens records indicate that prescriptions were filled for the fictitious person named Alex Davidson on at least ten other occasions.

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THIRD CAUSE FOR DISCIPLINE

(Illegal Possession of a Controlled Substance)

14. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and (f), as defined in section 2762, subdivision (a), in that Respondent obtained and possessed a controlled substance, to wit Vicodin, without a valid prescription. The circumstances surrounding the illegal drug possession are more particularly described in paragraph 12, subparagraphs (a) through (c), and paragraph 13, subparagraphs (a) through (c), inclusive, above, and herein incorporated by reference.

FOURTH CAUSE FOR DISCIPLINE

(Dangerous Use of Drugs)

15. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and (f), as defined in section 2762, subdivision (b) in that Respondent used controlled substances, to wit Vicodin, to an extent or in a manner dangerous or injurious to herself, and the public. The circumstances surrounding Respondent's dangerous use of drugs are more particularly described in paragraph 12, subparagraphs (a) through (c), and paragraph 13, subparagraphs (a) through (c), inclusive, above, and herein incorporated by reference.

FOURTH CAUSE FOR DISCIPLINE

(Conviction Involving the Prescription of Drugs)

16. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and (f), as defined in section 2762, subdivision (c), in that on or about July 23, 2008 and October 27, 2009, Respondent was convicted of crimes involving the prescription of controlled substances. The circumstance surrounding the convictions are more particularly described in paragraph 12, subparagraphs (a) through (c), and paragraph 13, subparagraphs (a) through (c), inclusive, above, and herein incorporated by reference.

OTHER DISCIPLINARY CONSIDERATIONS

17. On or about April 22, 2008, the Board placed Respondent in a drug diversion program with Maximus.

18. On or about May 5, 2010, Respondent was terminated from the Maximus diversion

1 program for failing to comply with provisions of the rehabilitation plan, and because she was
2 deemed a public safety risk.

3 PRAYER

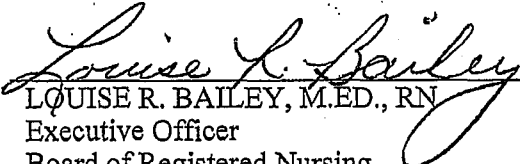
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 462490, issued to Toni
7 Lynelle Davis;

8 2. Ordering Toni Lynelle Davis to pay the Board of Registered Nursing the reasonable
9 costs of the investigation and enforcement of this case, pursuant to Business and Professions
10 Code section 125.3;

11 3. Taking such other and further action as deemed necessary and proper.
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15 DATED: 1/25/11


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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